REMARKS/ARGUMENTS

Claims 1-25 were previously pending. As noted above, claims 1, 4-14, and 17-23 have been amended, claim 25 has been canceled, and claims 26-38 have been added. Support for these amendments may be found throughout the Specification.[1] Thus, claims 1-24 and 26-38 are now pending.

Applicants respectfully request reconsideration of this application based on the following remarks.

Claim Objections

Claims 5, 6, 8, 13, 18-20 and 23 are objected to as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Applicants have revised the claims to overcome this objection.

Therefore, based on the foregoing, Applicants respectfully request that the Examiner withdraw the objection to claims 4, 5, 6, 8, 13, 17, 18-20 and 23. Furthermore, as amended claims 4, 5, 6, 8, 13, 17, 18-20 and 23 are neither anticipated nor suggested by the cited references, therefore these claims are condition for allowance, for which early action is requested.

Claim Rejections – 35 USC § 112

Claim 25 was rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. As Applicants have canceled claim 25, and thus the rejection is moot and Applicants request the rejection be withdrawn.

Claim Rejections – 35 USC § 102

Claims 1, 2, 7, 9-11, 14, 15, 21 and 24 are rejected under 35 USC § 102(a) as being anticipated by Bauer (European Patent Publication No. EP 1133201 A1). Applicants respectfully traverse this rejection.

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[1] *See, e.g.,* Specification, paragraphs [0028] – [0043], and the original claims.

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For a prior art reference to anticipate, 35 U.S.C. §102 requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[2] Bauer fails to disclose or suggest, "calculating a high watermark value and a low watermark value in response to the received parameter data **and radio link resources data** corresponding to maximal and minimal numbers of data frames to be buffered" (Emphasis added) as recited in amended independent claim 14 with similar language used in amended independent claims 1 and 24.

In contrast to the recited claim language, Bauer teaches reducing the rate of data flow when a virtual queue reaches an upper trigger (See, e.g. Bauer, Paragraph [0005]), where the request to reduce the rate is sent to the serving node. Bauer further teaches the input values for determining the reduced rate are "the queue length and the former bit rate value" from the serving node. (See, e.g. Bauer, Paragraph [0029]). Bauer does not disclose or suggest use of radio link resources data as inputs in calculating a high watermark value and a low watermark value.

Furthermore, transmission of data in Bauer is dependent on availability of a fixed number of timeslots. (See, e.g. Bauer, Paragraph [0053]). By contrast, the recited subject matter may use a coding scheme (CS) designation along with a number of assigned transmission slots within each eight-slot GSM frame to determine current radio resource allocation. (See, e.g. paragraphs [0038] and [0043]). In Bauer, transmission of data relies on timeslots rather than radio link resources data such as a coding scheme and/or a number of assigned transmission slots. Therefore there would be no motivation to add radio link resources data to buffer size calculates as it provide no functional benefit to Bauer.

Therefore, based on the foregoing, Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 2, 7, 9-11, 14, 15, 21 and 24 under 35 USC § 102(a) as being anticipated by Bauer.

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[2] *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

TECH/690482.1

Claim Rejections – 35 USC § 103

Claims 3, 4, 12, 16, 17 and 22 are rejected under 35 USC § 103(a), as being obvious over Bauer in view of Rajaraman (US Patent No. 5802310). Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, all of the claimed features must be taught or suggested by the references and there must be some suggestion or motivation, in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.[3]

As noted above, Bauer fails to disclose or suggest the subject matter as presently recited. The addition of Rajaraman fails to cure the above-discussed deficiencies in Bauer.

Therefore, based on the foregoing, Applicants respectfully request that the Examiner withdraw the rejection of claims 3, 4, 12, 16, 17 and 22 under 35 USC § 103(a) as being obvious over Bauer in view of Rajaraman.

New Claims

Applicants have added new claims 26-38 to recite subject matter to which they are entitled. As noted above, these new claims are fully supported throughout the Specification.

Additionally, claims 26-38 are allowable, as there is no combination of the cited references that discloses or suggests the subject matter recited by these claims. In particular, claims 26-38 are allowable for at least the same reasons discussed above with respect to claims 1-13.

Therefore, Applicants respectfully request that the Examiner allow claims 26-38.

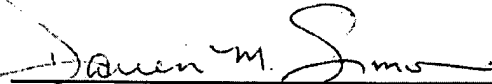
[3] MPEP, section 2142.

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CONCLUSION

In light of these remarks, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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